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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,369	02/14/2006	Antonius Adrianus Kalker	NL030991	4537

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P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

SIMS, JING F

ART UNIT	PAPER NUMBER
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2437

MAIL DATE	DELIVERY MODE
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/568,369	Applicant(s) KALKER, ANTONIUS ADRIANUS	
	Examiner JING SIMS	Art Unit 2437	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The instant application having Application No. 10/568,369 filed on 2/14/2006 is presented for examination by the examiner.

Oath/Declaration

2. The applicant's oath/declaration has been reviewed by the examiner and is found to conform to the requirements prescribed in **37 C.F.R. 1.63**.

Drawings

3. The drawings are objected to because the empty boxes in the flow chart of the figure without any description. A brief description for each step with reference numbers is required. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

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Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The abstract includes the legal phraseology “said”. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided in the abstract. Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1-3, 5-8, 13-15, and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Druyvesteyn et al. (European Patent Publication no: EP 0 372 601 B1) (hereinafter Druyvesteyn).**

As per claims 1 and 13, Druyvesteyn discloses a method of counteracting copying of digital information, the method comprising the steps of:

(a) providing a system (10) comprising at least one content provider (40) (*col. 6, lines 41-45, the software industry*), at least one consumer having one or more devices

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(50) for replaying digital information (*col. 1, lines 10-16, wherein CD players corresponding with the devices*), first distributing means (30) for distributing authorized copies of said digital information from said at least one content provider (40) to said at least one consumer, and second distributing means (20) susceptible to distributing unauthorized copies of said digital information from said at least one content provider (40) to said at least one consumer (*col. 14, lines 49-57, a device is intended for the consumer market is capable of normally recording audio information not containing a copy inhibit code on a record carrier*);

(b) arranging for said at least one content provider (40) to be susceptible to providing authorized copies of said digital information to said at least one customer via the first distributing means (30) (*col. 8, lines 24-41, devices intended for the consumer market may enable original recordings, which in the absence of the control signal and does not contain the auxiliary signal, to be copied*);

(c) arranging for distribution via the second distributing means of copies of said digital information from said at least one content provider (40) wherein at least a portion of said digital information is watermarked (*col. 8, lines 10-23, the recording devices which are intended for the consumer market, may add the auxiliary signal*); and

(d) arranging for said one or more devices (50) to include watermark detecting means (65, 70) operable to identify the digital information presented thereto which has been watermarked, said detecting means (65, 70) being susceptible to hindering replay of the digital information which is watermarked (*col. 7, lines 21-23, when the auxiliary*

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signal is detected recording is inhibited, or the signal to be recorded is distorted on purpose before it is recorded).

As per claims 2 and 14, Druyvesteyn discloses a method according to claim 1, wherein the authorized copies of said digital information are substantially devoid of watermarks detectable to the detector (65, 70) (*col. 8, lines 37-41, this enables original recordings, not provided with the auxiliary signal or prerecorded tapes to be copied*).

As per claims 3 and 15, Druyvesteyn discloses a method according to claim 1, wherein the portion of the digital information which is watermarked is covertly watermarked (*col. 2, lines 1-9, the amount of extra information that can be added to the quantized digital signal without being audible with detection*).

As per claims 5 and 17, Druyvesteyn discloses a method according to claim 1, wherein the second distributing means (20) includes the Darknet (20) (*col. 3, lines 28-35, wherein the network to transmitting and receiving the reproduced digital information with auxiliary signals corresponding with Darknet*).

As per claims 6 and 18, Druyvesteyn discloses a method according to claim 1, wherein the first distributing means (30) comprises at least one of: at least part of the Internet, stores/retailers, postal delivery services and library facilities (*col. 8, lines 24-41, the consumer market that with digital content that distributed without auxiliary signal*).

As per claims 7 and 19, Druyvesteyn discloses a method according to claim 1, wherein the authorized copies of said digital information are conveyed on physical data carriers (*col. 17, lines 24-34, magnetic record carrier, optical record carrier*).

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As per claims 8 and 20, Druyvesteyn discloses a method according to claim 7, wherein the data carriers are at least one of CD's and DVD's (*col. 17, lines 24-34, CD and optical record carrier*).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Druyvesteyn in view of Verance Audio Watermark Detector (hereinafter Watermark Detector).

As per claims 4 and 16, Druyvesteyn discloses claim 1 and claim 13, however, Druyvesteyn does not disclose wherein the watermark detecting means (65, 70) is a legislated requirement for said one or more devices (50)

Watermark Detector discloses wherein the watermark detecting means (65, 70) is a legislated requirement for said one or more devices (50) (*page 1, left col. para. 3, solution for manufacturers developing SDMI, Secure Digital Music Initiative, compliant devices*).

Druyvesteyn and Watermark Detector are analogous art because they are from the same field of endeavor of watermark detection system.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the watermark detecting device as described by Druyvesteyn and add the explanation of the device is required by authorities or regulators such as SDMI as disclosed in Watermark Detector because it would provide the necessity of the devices in the industry.

9. Claims 9-11 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Druyvesteyn in view of Kondo (European Patent Publication no: EP 0 973 265 A3).

As per claims 9 and 21, Druyvesteyn discloses claims 1 and 13, however, Druyvesteyn does not disclose wherein more than 20% of the digital information provided from said at least one content provider (40) for distribution via the second distributing means (20) is subject to watermarking.

Kondo discloses wherein more than 20% of the digital information provided from said at least one content provider (40) for distribution via the second distributing means (20) is subject to watermarking ([0055], *the partial image deteriorating effect on the image quality equivalent to digital watermark. The percentage of 20 of the deterioration is design choice*).

Druyvesteyn and Kondo are analogous art because they are from the same field of endeavor of utilizing watermarking technology to protect digital content.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the auxiliary signal code as described by Druyvesteyn and add the code is partially deteriorate the original digital content as taught by Kondo because it would provide randomness to the partially deteriorate digital content, therefore, increasing the difficulty of removing the watermark.

As per claims 10 and 22, Kondo discloses wherein more than 50% of the digital information provided from said at least one content provider (40) for distribution via the second distributing means (20) is subject to watermarking ([0055], *the partial image deteriorating effect on the image quality equivalent to digital watermark. The percentage of 50 the deterioration is design choice*).

As per claims 11 and 23, Kondo discloses wherein more than 80% of the digital information provided from said at least one content provider (40) for distribution via the second distributing means (20) is subject to watermarking ([0055], *the partial image deteriorating effect on the image quality equivalent to digital watermark. The percentage of 80 the deterioration is design choice*).

10. Claims 12 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Druyvesteyn in view Pirot et al. (US Patent Publication no.: US 2002/0136124 A1) (hereinafter Pirot).

As per claims 12 and 24, Druyvesteyn discloses digital information that is at least partially watermarked; however, Druyvesteyn does not disclose the one or more devices are randomly operable to hinder replay of digital information.

Pirot discloses wherein the one or more devices (50) are randomly operable to hinder replay of digital information received thereat when said digital information is at least partially watermarked *([0037], a particular geometry will induce a random orientation between branches. A limited number of branchpoint geometries make it possible to obtain the random geometry of the system).*

Druyvesteyn and Pirot are analogous art because they are from the same field of endeavor of managing digital content.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the including auxiliary signal code to digital content as described by Druyvesteyn and add the digital content can be randomly orientated between branches as taught by Pirot because it would provide give rise to non-sequential reading and therefore to information which is more difficult to access, therefore, increasing the security of the digital content.

Examiner Notes

Examiner has pointed out particular references contained in the prior arts of record and in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as

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well. Applicant should consider the entire prior art as applicable to the limitations of the claims. It is respectfully requested from the applicant, in preparing for response, to consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the Examiner.

Conclusion

11. The following prior art made of record and not relied upon is cited to establish the level of skill in the applicant's art and those arts considered reasonably pertinent to applicant's disclosure. See **MPEP 707.05(c)**.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JING SIMS whose telephone number is (571)270-7315. The examiner can normally be reached on 7:30am-5:00pm EST, Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571)272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JING SIMS/
Examiner, Art Unit 2437

/Emmanuel L. Moise/
Supervisory Patent Examiner, Art Unit 2437